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BEFORE THE FEDERAL ELECTION COMMISSION

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CASE CLOSURE UNDER THE
ENFORCEMENT PRIORITY SYSTEM

SENSITIVE

In the Matter of

MUR 6325
HARTLINE FOR CONGRESS 2010 AND
PHILLIP W. MEADOWS, AS TREASURER
JEFFREY A. HARTLINE

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, matters that are low-rated

are

forwarded to the Commission with a recommendation for dismissal. The Commission has determined that pursuing low-rated matters, compared to other higher-rated matters on the Enforcement docket, warrants the exercise of its prosecutorial discretion to dismiss these cases. The Office of General Counsel scored MUR 6325 as a low-rated matter.

The complainant, William Vernon Frederick, states that Hartline for Congress 2010 and Phillip W. Meadows, in his official capacity as treasurer ("the Committee"), and Jeffrey A. Hartline (collectively, "respondents"), violated the Federal Election Campaign Act of 1971, as amended ("Act"), and Commission regulations, by failing to include disclaimers on "multiple campaign billboards" and "campaign yard signs" during Mr. Hartline's congressional campaign, in violation of 2 U.S.C. § 441d(a)(1) and 11 C.F.R. §§ 110.11(a) and (b)(1).¹ Appended to the complaint are what appear to be photographs of two billboards, which include the text "Jeff Hartline Congress 2010. A New Voice for the People. HartlineForCongress.com," but do not include a disclaimer stating that the Committee had paid for them. In addition, the complaint includes a photograph of what appears to be a

¹ Mr. Hartline was an unsuccessful candidate for Congress from Tennessee's 5th Congressional District.

1 Hartline yard sign, the text of which reads: "JEFF HARTLINE, CONGRESS 2010, A NEW
2 VOICE FOR THE PEOPLE, www.hartlineforcongress.com." Like the Hartline campaign
3 billboard, the yard sign lacks a disclaimer stating that the Committee had paid for it.

4 David R. Shepherd, the Committee's campaign manager, and William M. Outhier, the
5 respondents' designated counsel, filed submissions on behalf of the respondents. In
6 Mr. Shepherd's response, he acknowledges that disclaimers had been left off "a portion of our
7 printed campaign communications—specifically, certain yard signs and one billboard."² He
8 asserts these omissions were inadvertent, and that "upon learning of this oversight," the
9 Committee took the following remedial actions: printing disclaimer labels and affixing them
10 to all yard signs; contacting the vendor to have disclaimer information added to the billboard;
11 and implementing revised review and approval procedures for all future printed campaign
12 materials.

13 Mr. Outhier's response asserts that the yard signs and billboard included identifying
14 information—specifically, the Committee's website address— but acknowledges that some of
15 the Committee's yard signs and billboards lacked the requisite disclaimers for approximately
16 one month. However, upon learning of the omissions, the Committee, according to
17 Mr. Outhier, took immediate corrective action by printing stickers bearing the following
18 statement "Paid for by Hartline for Congress 2010, Phil Meadows, Treasurer." Next, the
19 Committee affixed the "disclaimer stickers" to all of the approximately 379 campaign signs
20 still in its campaign office, and was able to locate and correct approximately 821 additional

² The complaint alleges that "multiple campaign billboards" lacked disclaimers, while Mr. Shepherd's response refers to only one billboard. The response submitted by respondents' counsel clarifies the discrepancy. Respondents had placed a campaign advertisement on a billboard located at 4114 Hillsboro Road, Nashville, TN, and, in addition, had advertised on an electronic billboard located at 2922 West End Avenue, Nashville, TN. While both billboards were addressed in the complaint, the latter had ceased displaying Hartline campaign advertisements as of July 15, 2010.

1 signs, which Mr. Outhier estimates was at least 75-80% of the Hartline campaign's yard signs
2 in the field.

3 Mr. Outhier also states that the Committee informed the Commission of the problem
4 and subsequent corrective action, and has sought to ensure its future compliance with the Act
5 and underlying Commission regulations by having legal counsel preview its public
6 communications. Further, Mr. Outhier points out that the Hartline campaign was
7 discontinued after Mr. Hartline was defeated in Tennessee's August 5, 2010 primary election.

8 Political committee campaign materials that require disclaimers include, *inter alia*,
9 billboards and yard signs, *see* 2 U.S.C. § 441d(a); *see also* 11 C.F.R. § 110.11(a).
10 Furthermore, if such campaign material is paid for and authorized by a candidate's authorized
11 committee, "the disclaimer must clearly state that the communication has been paid for by the
12 authorized political committee." 11 C.F.R. § 110.11(b)(1). Respondents have conceded that
13 disclaimers were necessary, and have indicated in their separate responses that the Committee
14 made efforts to remedy the initial absence of disclaimers by affixing new disclaimers to the
15 printed campaign communications at issue.

16 In light of the limited scope of the activity and the respondents' swift remedial action,
17 and in furtherance of the Commission's priorities and resources, relative to other matters
18 pending on the Enforcement docket, the Office of General Counsel believes that the
19 Commission should exercise its prosecutorial discretion and dismiss this matter. *See Heckler*
20 *v. Chaney*, 470 U.S. 821 (1985). Additionally, this Office intends on reminding Hartline for
21 Congress 2010 and Phillip W. Meadows, in his official capacity as treasurer, of the
22 requirements under 2 U.S.C. § 441d(a) and 11 C.F.R. §§ 110.11(a) and (b)(1) concerning the
23 use of appropriate disclaimers.

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RECOMMENDATIONS

The Office of General Counsel recommends that the Commission dismiss MUR 6325, close the file, and approve the appropriate letters. Additionally, this Office recommends that the Commission remind Hartline for Congress 2010 and Phillip W. Meadows, in his official capacity as treasurer, of the requirements under 2 U.S.C. § 441d(a) and 11 C.F.R. §§ 110.11(a) and (b)(1) concerning the use of appropriate disclaimers.

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12/14/10
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